

FOIA exemptions (b) (1) and (b) (3) are not based only on the substantive content of the documents but also on the characteristics of the reports that identify the intelligence sources and methods that would be seriously jeopardized by the disclosure plaintiff seeks. That is, all of the COMINT reports at issue here (with one exception) are based on messages which were intercepted from government net communications systems. (See paragraph 10, above.) Moreover, almost all of these messages were enciphered when originally transmitted. Thus, release of any portion of the substantive message would not only risk identifying the ability of NSA to intercept a particular line of communications but would also risk revealing the capability of NSA to read foreign government's enciphered messages. Similar harm would result from the disclosure of any material that might help to

identify the communications intercepted by NSA, such as information about date, time, origin or manner of transmission or receipt. Also, the revelation of the substantive content of the reports would allow foreign officials to determine which channels or types of communications are being monitored. The public disclosure of either the content of the reports or of any identifying characteristics would have the same adverse consequences on the communications intelligence activities of the United States. All such information relates to classified communications intelligence functions of NSA that have not been publicly disclosed by the Agency in any other context.

RELEASE OR NON-COMINT RECORDS

20. Three of the four non-COMINT records at issue here were released in large part, with certain deletions. One of these records was withheld in its